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## **9 | Co-Liaison Counsel for Plaintiffs and the Class**

10 | *(Additional Counsel Listed on Signature Page)*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

14 | In re: MGM Resorts International Data  
Breach Litigation

| Case No.: 2:20-CV-00376-GMN-NJK

**NOTICE OF RELATED CASES PURSUANT  
TO LOCAL RULE 42.1**

**RELATED CASE NOS.:**

2:23-CV-01480-JAD-VCF  
2:23-CV-01481-RFB-DJA  
2:23-CV-01537-CDS-BNW  
2:23-CV-01549-RFB-NJK  
2:23-CV-01550-CDS-NJK  
2:23-CV-01577-JAD-VCF  
2:23-CV-01698-CDS-DJA  
2:23-CV-01719-RFB-BNW  
2:23-CV-01777-CDS-BNW  
2:23-CV-01826-CDS-EJY

1 Plaintiffs Ryan Bohlim, Duke Hwynn, Andrew Sedaghtpour, Gennady Simkin, Robert  
 2 Taylor, Michael Fossett, Victor Wukovits, Kerri Shapiro, Julie Mutsko, John Dvorak, Larry Lawter,  
 3 individually and on behalf of those similarly situated (collectively, “Plaintiffs”) hereby file this  
 4 Notice of Related Cases.

5 **I. Title and Case Number of Each Possibly Related Action:**

- 6 • *Owens v. MGM Resorts International*, No. 2:23-cv-01480-JAD-VCF, filed September 21, 2023
- 7 • *Kirwan v. MGM Resorts International*, No. 2:23-cv-01481-RFB-DJA, filed September 21, 2023
- 8 • *Zussman v. VICI Properties L.P., et al.*, No. 2:23-cv-01537-CDS-BNW, filed September 27,  
 9 2023
- 10 • *Lackey v. MGM Resorts International*, 2:23-cv-01549-RFB-NJK, filed September 28, 2023
- 11 • *Pircio v. MGM Resorts International*, 2:23-cv-01550-CDS-NJK, filed September 28, 2023
- 12 • *Terezo v. MGM Resorts International*, 2:23-cv-01577-JAD-VCF, filed October 3, 2023
- 13 • *Rundell v. MGM Resorts International*, 2:23-cv-01698-CDS-DJA, filed October 18, 2023
- 14 • *Bezak v. MGM Resorts International*, 2:23-cv-01719-RFB-BNW, filed October 20, 2023
- 15 • *Zari v. MGM Resorts International*, 2:23-cv-01777-CDS-BNW, filed November 1, 2023
- 16 • *Manson v. MGM Resorts International*, 2:23-cv-01826-CDS-EJY, filed November 7, 2023

17 **II. The 2023 MGM Data Breach Cases Should Be Related to *In re: MGM Resorts*  
 18 *International Data Breach Litigation*.**

19 The ten cases listed above (the “2023 Data Breach Cases”) should be related to the ongoing  
 20 litigation captioned *In re: MGM Resorts International Data Breach Litigation*, No. 2:20-CV-  
 21 00376-GMN-NJK (“*In re: MGM Data Breach*”) because they involve the same claims based on  
 22 similar facts being alleged against the same Defendant on behalf of substantially overlapping  
 23 putative classes.

24 In 2020, Judge Navarro appointed the undersigned as Co-Lead Counsel and Co-Liasion  
 25 Counsel in six consolidated class actions brought against MGM Resorts International by individuals  
 26 whose information was compromised in MGM’s massive 2019 data breach. *See Order, In re: MGM*  
*Data Breach*, Dkt. No. 93 (February 1, 2021). Since then, the parties have briefed MGM’s Motion  
 27

1 to Dismiss, which the Court granted in part and denied in part in a detailed 43-page Order. *See Id.*,  
 2 Dkt. No. 128 (Nov. 2, 2022). The parties are now in the middle of fact discovery and about to begin  
 3 depositions.

4       Although in their infancy, the 2023 Data Breach Cases assert similar claims against MGM  
 5 related to a data breach that the company announced in September 2023. They involve the same  
 6 defendant, substantially similar factual questions, and appear to involve a largely overlapping  
 7 proposed classes as *In re: MGM Data Breach*. In particular, MGM notified many affected  
 8 consumers that the personal information obtained in the 2023 breach belonged to customers who  
 9 transacted with MGM prior to March 2019, which means the class members in the 2023 Data  
 10 Breach Cases are substantially the same people whose claims already are being litigated in *In re:*  
 11 *MGM Data Breach*. In addition, both the 2019 and 2023 data breaches resulted in the compromise  
 12 of the same types personal information.

13       Many of the legal and factual questions at issue in the cases are overlapping, such that  
 14 assignment to a single district judge will promote judicial efficiency and prevent inconsistent  
 15 results. The newly-filed cases assert the same or substantially similar claims against MGM as in the  
 16 2019 data breach case.

17       Assigning these cases to different judges also would risk inconsistent judgments. For  
 18 example, in the present case, Judge Navarro has already ruled on issues like whether the economic  
 19 loss doctrine bars Plaintiffs' negligence claim (finding that it does not) and whether Plaintiffs'  
 20 damages theories concerning the benefit of the bargain and the diminution of value of PII are legally  
 21 cognizable (finding in favor of Plaintiffs on both theories). *See Smallman v. MGM Resorts*  
 22 *International*, 638 F. Supp. 3d 1175, 1188, 1190-91 (D. Nev. 2022). Unsurprisingly, Plaintiffs in  
 23 the newly-filed cases also make negligence claims and assert the same damages theories that are  
 24 very similar to those in *In re: MGM Data Breach*. There is, therefore, a significant risk of inefficient  
 25 and inconsistent judgments should different judges be assigned and reach varying conclusions on  
 26 the same issues in litigation involving the same Defendant.

27       At this time, the undersigned are only moving to relate these cases. Counsel are investigating  
 28

1 whether to seek consolidation in the near future. The *In re: MGM Data Breach* plaintiffs have  
2 served MGM with discovery concerning the overlap between the two data breaches and the affected  
3 class members. Depending on the facts, it may be extraordinarily inefficient to appoint separate  
4 counsel to represent substantially the same class members on nearly legal and factual claims.

5 Given the similar questions of law and fact between those actions and this case, the strong  
6 likelihood of significant overlap between the class members, and the substantial progress in *In re:*  
7 *MGM Data Breach*, relating these actions would be far more efficient than keeping them separate.

8 DATED this 6<sup>th</sup> day of December, 2023.

9 Respectfully submitted,

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11 /s/ Don Springmeyer

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of December, 2023, and pursuant to the Federal Rules of Civil Procedure, a true and correct copy of the foregoing **NOTICE OF RELATED CASES PURSUANT TO LOCAL RULE 42.1** was served via the U.S. District Court's electronic filing system on all individuals entitled to receive service thereto.

*/s/ Pamela McAfee*

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An employee of Kemp Jones, LLP